

State of California

M E M O R A N D U M

TO: PERSONNEL MANAGEMENT LIAISONS **DATE:** December 9, 2003
REFERENCE CODE: 2003-051

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Employee Relations Officers
Personnel Officers
Personnel Transactions Supervisors
Personnel Transactions Staff
Claims Coordinators
Employee Benefit Officers
Health and Safety Officers
Return-to-Work/Claims Coordinators
Workers' Compensation and Safety Officers

FROM: Department of Personnel Administration
Policy and Operations Division

SUBJECT: Eligibility Requirements Under the Family and Medical Leave Act
of 1993

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This Personnel Management Liaison (PML) provides administrative guidance in the application of the Family and Medical Leave Act (FMLA) regulations regarding eligibility requirements.

The FMLA allows up to 12 weeks of unpaid, job-protected leave to eligible employees for specified family and medical reasons. Employees are eligible under the FMLA if they have worked for a covered employer for at least 12 months, and have worked at least 1,250 hours during the 12 months preceding the start of the leave. The 1,250 hours must be "physical time worked," and therefore does not include any periods of paid or unpaid leaves.

Interaction of FMLA with Workers' Compensation

In a prior PML (93-48) dated July 20, 1993, the Department of Personnel Administration provided direction to departments on how to apply the FMLA when an employee had suffered a workers' compensation injury/illness. The PML specified that "paid leaves due to

PML 2003-051
December 9, 2003
Page 2

job-related accidents or injuries (Industrial Disability Leave [IDL] or Temporary Disability [TD]) should not be counted against an employee's 12-week FMLA entitlement." The memo did not provide information on how to apply the 1,250 hours' criteria with respect to worker's compensation leaves. Therefore, the following criteria should be applied.

Employees who are on IDL or TD must meet the 1,250 hours' requirement test to be eligible for an FMLA leave. Therefore, in determining an employee's eligibility for FMLA leave, paid leaves due to job-related accidents or injuries should not be counted toward satisfying the 1,250 hours' test.

If personnel office staff has any questions regarding eligibility requirements under the FMLA of 1993, they may contact Sydney Perry within the Policy and Operations Division.

Bob Painter, Chief
Policy and Operations Division